

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CAREN DAVIS,

Plaintiff,

v.

TEXAS PREMIER RESOURCES, LLC.
D/B/A PREMIER TANK TRUCK SERVICE,

Defendant.

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CIVIL ACTION NO.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a), Defendant Texas Premier Resources, LLC d/b/a Premier Tank Truck Service (“Defendant”) files this Notice of Removal, hereby removing this action from the County Court at Law Number 2 for Johnson County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. Removal is based on federal question jurisdiction. *See* 28 U.S.C. §§ 1331, 1441(a).

I.
INTRODUCTION

1. Plaintiff filed her First Amended Petition on April 22, 2019, in County Court at Law Number 2 for Johnson County, Texas, located at 204 S Buffalo Street, Cleburne, Texas 76033. Plaintiff’s First Amended Petition asserts several causes of action against Defendant, including a retaliation claim under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 et seq., for which Plaintiff seeks recovery of compensatory damages greater than \$100,000 but less than \$200,000.

2. Plaintiff served Defendant on April 22, 2019. This Notice of Removal is being filed within thirty (30) days of service and is thus timely under 28 U.S.C. §1446(b)(3).

II.
GROUND FOR REMOVAL

A. Federal Question Jurisdiction

3. This is a case over which this Court has jurisdiction pursuant to 28 U.S.C. § 1331, and which may be removed to this Court by Defendant due to federal question jurisdiction pursuant to 28 U.S.C. § 1441(a).

4. A case arises under federal law if a complaint establishes that either (1) federal law creates the cause of action or (2) the plaintiff's right to relief necessarily depends on the resolution of a substantial question of federal law. *Empire Healthchoice Assur., Inc. v. McVeigh*, 547 U.S. 677, 689-90 (2006); *Singh v. Duane Morris LLP*, 538 F.3d 334, 337-38 (5th Cir. 2008). Here, Plaintiff has clearly pleaded a claim under federal law.

5. Pursuant to 28 U.S.C. § 1367(a), this Court's exercise of original jurisdiction over the FLSA claim also grants it supplemental jurisdiction over all other related claims in this action.

III.
VENUE

6. Venue for removal proper in this district and division under 28 U.S.C. § 1441(a) because this district and division embrace the Civil Courts of Johnson County, Texas, the forum in which the removed action was previously pending.

IV.
PROCEDURAL REQUIREMENTS

7. Pursuant to 28 U.S.C. §1446(a) and Northern District of Texas Local Rule LR 81.1, the Notice of Removal has the following attachments:

Exhibit 1: Index of Matters Being Filed

Exhibit 2: Completed Civil Cover Sheet

Exhibit 3: Certified Copy of Civil Docket Sheet from April 29, 2019;

Exhibit 4: Copy of Plaintiffs' Original Petition and Requests for Disclosure filed on March 18, 2019 and Citation issued to Defendant Texas Premier Resources,

LLC d/b/a Premier Tank Truck Service on March 22, 2019;

Exhibit 5: Copy of Defendant Texas Premier Resources, LLC d/b/a Premier Tank Truck Service's Original Answer filed on April 11, 2019;

Exhibit 6: Copy of Plaintiff's First Amended Petition filed on April 22, 2019

Exhibit 7: A separately signed certificate of interested persons

9. Pursuant to 28 U.S.C. § 1446(d), written notices of filing of this Notice of Removal will be given to all adverse parties promptly after the filing of same.

10. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal will be filed with the Court Clerk for the County Court at Law Number of Dallas County, Texas promptly after filing of same.

V.
CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Defendant Texas Premier Resources, LLC d/b/a Premier Tank Truck Service respectfully requests that the above-captioned action now pending in County Court at Law Number 2 of Johnson County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully Submitted,



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ATTORNEYS FOR DEFENDANT
TEXAS PREMIER RESOURCES, LLC D/B/A
PREMIER TANK TRUCK SERVICE

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served upon Plaintiff's counsel on the 30 April 2019 via eservice in accordance with the Texas Rules of Civil Procedure:

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